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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/931,660	08/16/2001	Shin Iima	450100-03393	3348
20999	7590	08/11/2006	EXAMINER	
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			WU, RUTAO	
			ART UNIT	PAPER NUMBER
			3639	

DATE MAILED: 08/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/931,660	Applicant(s) IIMA, SHIN	
	Examiner Rutao Wu	Art Unit 3639	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 10, 2006 has been entered.

Status of Claims

2. In response filed April 10, 2006, the applicants amended claims 4, 7 and 8. No claims have been cancelled and new claims have been introduced. Claims 1-8 are pending in the current application.

Response to Arguments

3. Applicant's arguments filed April 10, 2006 have been fully considered but they are not persuasive.

Regarding to claim 1, the applicants argue that Ferguson does not teach *multiplexing means for multiplexing a unit cost per unit data and a first magnitude in said data transferred through said network when said judgment formed by said judgment means judges that the action was initiated by a first party and for multiplexing*

a unit cost per unit data and a second magnitude in said data transferred through said network when said judgment formed by said judgment means judges that the action was initiated by a second party as recited in claim 1. The Examiner respectfully disagrees.

The applicant does not provide specific definition for “multiplexing” in the specification as currently presented. Therefore the examiner takes multiplexing as to mean “association”, thus the above limitation is taken to mean associating a unit cost per unit data and an amount of data in said data transferred through said network when said judgment formed by said judgment means judges that the action was initiated by a first party... Ferguson et al disclose the ability to set fees to be paid by the user for an amount of data accessed; (col 3: lines 62-63) The fees can depend on the size of a document. (col 30: lines 1-2) Therefore, it is clear that Ferguson et al associates a unit cost per unit data and the amount of data transferred to determine the amount to be charged to the user. Consequently, Ferguson et al teach *multiplexing means for multiplexing a unit cost per unit data and a first magnitude in said data transferred through said network when said judgment formed by said judgment means judges that the action was initiated by a first part.*

With regards to the limitation on associating the charge and amount of data to the party that initiated the data transfer as determined by the judgment means as recited in claim 1. Ferguson et al disclose metering of user usage patterns for the online service, this can include the number of users who access the service, the duration of each user's connection time, the number of times that a certain part of the

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service is accessed... This data can be used to levy fees for users, advertisers, of information providers, or to tune the service itself. (col 12: lines 15-23) Levying a fixed fee on a content provider whenever a user views or downloads that provider's textual or graphic information from the online service. (col 31: lines 2-5) It is clear from the disclosure that Ferguson et al is capable of charging the party which is responsible for initiating the data transfer by classifying the data as Users Pay or Content Provider Pay which produce the same results as the "magnitudes" as presented by the applicant, since magnitude as defined by the applicant is just to differentiations between the responsible parties. Therefore, Ferguson et al teach *multiplexing means for multiplexing a unit cost per unit data and a first magnitude in said data transferred through said network when said judgment formed by said judgment means judges that the action was initiated by a first party and for multiplexing a unit cost per unit data and a second magnitude in said data transferred through said network when said judgment formed by said judgment means judges that the action was initiated by a second party*

Claims 2-4, 7 and 8 recite similar language as claim 1, therefore, claims 2-4, 7 and 8 stand rejected.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat No. 5,819,092 to Ferguson et al.

Referring to claims 1-3:

An information-processing apparatus for transmitting data through a network, comprising:

judgment means for forming a judgment as to which of at least two parties initiated an action for transferring data through said network; (col 8: lines 63-67; col 9: lines 1-2; col 13: lines 58-60)

multiplexing means for multiplexing a unit cost per unit data in said data and a first magnitude in said data transferred through said network when said judgment formed by said judgment means judges that the action was initiated by a first party and for multiplexing a unit cost per unit data and a second magnitude in said data transferred through said network when said judgment formed by said judgment means judges that the action was initiated by a second party; and (col 4: lines 58-60, 64-67; col 30: lines 28-30, 61-62; col 31: lines 2-7, lines 33-43)

transmission means for transmitting said data multiplexed with said unit cost by said multiplexing means through said network. (col 4: lines 46-48; col 9: lines 5-9; col 11: lines 4-8)

the examiner is considering, based on the specifications portion of the applicant's application, that if data was transferred with a negative value, then initiating side would not be levied a charge or be paid an amount of fee; if data was transferred with a positive value, then the initiating side would be levied a charge and the non-initiating

side would not be levied a charge or be paid an amount of money. A couple of examples are provided by Ferguson's patent to illustrate the concept. Users can be levied a fee for information viewed or downloaded and the provider can be paid a fee for users accessing their information. In this case, the users initiated the transferring with a positive value. A provider can be levied a fee for users viewing or downloading their information. In this case, the users initiated the transferring with a negative value.

Referring to claims 4, 7 and 8:

An accounting-processing apparatus for settling accounting for data exchange through a network, comprising:

judgment means for forming a judgment as to which of at least two parties initiated an action for transferring data through said network by determining if a first magnitude or a second magnitude is multiplexed in said data; (col 8: lines 63-67; col 9: lines 1-2; col 13: lines 58-60; col 31:21-60; col 32: 1-32) and

accounting means for determining the party determined by said judgment means to be a side initiating an action for transferring data through said network to settle accounting for said data transferred through said network. (col 7: lines 29-31; col 9: lines 2-5; col 10: lines 13-14)

Referring to claim 5:

An accounting-processing apparatus according to claim 4, further comprising:

First acquisition means for acquiring an amount of data exchange through said network; and (col 3: lines 62-63; col 18: lines 36-37; col 30: lines 1-2, 42-43)

Second acquisition means for acquiring a unit price per unit data for data exchanged through said network, (col 3: lines 62-63; col 18: lines 36-37; col 30: lines 1-2, 42-43)

Wherein said accounting means computes a price of transferred data on the basis of an amount of data acquired by said first acquisition means and a unit price acquired by said second acquisition means. (col 3: lines 62-63; col 18: lines 36-37; col 30: lines 1-2, 42-43)

Referring to claim 6:

An accounting-processing apparatus according to claim 4 wherein said second acquisition means further acquires a sign of said unit price, and said accounting means drives said transmission side or said reception side determined to be a side not initiating an action for transferring data through said network to settle accounting in case said sign is negative. (col 4: lines 58-60, 64-67; col 30: lines 28-30, 61-62; col 31: lines 2-7, lines 33-43)

the examiner is considering, based on the specifications portion of the applicant's application, that if data was transferred with a negative value, then initiating side would not be levied a charge or be paid an amount of fee; if data was transferred with a positive value, then the initiating side would be levied a charge and the non-initiating side would not be levied a charge or be paid an amount of money. A couple of examples are provided by Ferguson's patent to illustrated the concept. Users can be levied a fee for information viewed or downloaded and the provider can be paid a fee for users accessing their information. In this case, the users initiated the transferring with a

positive value. A provider can be levied a fee for users viewing or downloading their information. In this case, the users initiated the transferring with a negative value.

Conclusion

6. Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that the applicant, in preparing the responses, fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

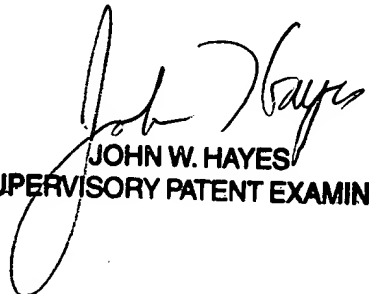
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rutao Wu whose telephone number is (571)272-3136. The examiner can normally be reached on Mon-Fri 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571)272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

rw



JOHN W. HAYES
SUPERVISORY PATENT EXAMINER